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October 12, 1993



SEMS DocID

2261448

VIA FAX

Mr. Stephen Jarvela
Superfund Removal Branch (3HW30)
EPA Region III
841 Chestnut Street
Philadelphia, PA 19170

**Re: Shaffer Equipment Company Site, Minden,
West Virginia**

Dear Mr. Jarvela:

On Wednesday, October 6, 1993, we received materials from you concerning the above-referenced site. Specifically, we received a cover letter addressed to Carl L. Fletcher; copies of comments from, and your responses to, Larry Rose, ATSDR, and the West Virginia Department of Health and Human Resources; and a draft Site Review Work Plan (the "draft Plan") with attached Sampling Plan, maps and implementation schedule. Your cover letter to Mr. Fletcher instructs that we review the documents and "forward any comments to [you] by October 12, 1993."

This correspondence is the first notice to us or our client, Berwind Land Company ("BLC"), that the EPA was planning further activities at the Shaffer site. Despite the fact that it owns a small portion of the Shaffer site and was a party to the EPA's recent cost recovery action, BLC was not notified of the file review referenced in your response to comments by Larry Rose. It is my understanding, based upon my telephone conversation with you on Friday, October 8, 1993, that you will accept comments regarding your draft Site Review Work Plan and Sampling Plan for the above-referenced site at any time. Therefore, although our initial comments concerning the draft Plan are set forth below, I hereby reserve the right to file comments after October 12, 1993, on behalf of BLC.

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COMMENTS:

- (1) The draft Plan does not identify any specific statutory or regulatory authority under which EPA is planning to take this action. As a condition of granting access to its property, and before any work is undertaken, BLC requires that the EPA supply such a statement, in writing.
- (2) In the Introduction section of the draft Plan, the TAT states that the site map was generated during the data research phase of this project. What is "this project" and when, and by whom, was the data research performed?
- (3) As noted above, BLC was a defendant in the recent cost recovery action regarding the Shaffer site. Accordingly, BLC is particularly concerned that two of the four stated purposes in the Plan involve the assessment and verification of EPA's prior activities at the Site. BLC assumes that these purposes arise from the "anomalies" referenced in paragraph no. 1 of your letter to Larry Rose. BLC requests a copy of your previous correspondence to Larry Rose and others regarding EPA's file review of the Shaffer site and any report generated as a result of that review. If not included therein, BLC also requests a description of those anomalies and analytical discrepancies referenced in the draft Plan. Please contact me immediately if a FOIA request is necessary.
- (4) As a general proposition, BLC objects to any sampling plan which is intended to replicate EPA's efforts in earlier cleanups. BLC requests that EPA clarify whether its proposed sampling sites (1) are devised to independently assess current health concerns with the entire Shaffer site, (2) are limited to areas not sampled during EPA's earlier cleanups, or (3) include areas previously sampled by EPA which are believed to be contaminated.
- (5) BLC requests a copy of the historical data review memo referenced in the Plan, paragraph no. 1 TOPOGRAPHICAL SURVEY of Section IV OBJECTIVES.
- (6) BLC requests split samples of each sample obtained by EPA pursuant to its Sampling Plan.
- (7) BLC requires, as a condition of granting access to its property, that its designated representative be on-site as an observer during all phases of EPA or TAT activity. Accordingly, BLC requests that it be notified as soon as the EPA's

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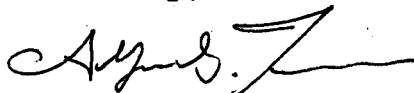
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implementation schedule is finalized. I will serve as the contact person for this information.

- (8) BLC questions the EPA's objective, and its ability, to investigate past erosion events on-site in view of the extensive excavation and backfilling done during the previous cleanups. BLC requests clarification regarding the relevance of such information to current conditions or contamination. Further, we question the propriety of beginning sampling before the topographic map is completed, as the sampling plan may be subject to change once the map is generated.
- (9) As indicated in the Sampling Plan, the EPA previously used a 50ppm action level for the Shaffer site and has offered no explanation for deviating from this standard. BLC therefore objects to the EPA's use of a 10ppm standard for choosing sampling points or for evaluating future removal or remedial actions.
- (10) Sampling eastward should have a contingent termination plan. If analyses continue to show results below action levels to the east, it would represent overkill to continue sampling further eastward. The only possible justification for additional eastward sampling would be demonstration of sinuous or dendritic flow patterns through the areas.
- (11) We assume that if sampling results are within acceptable levels, soil cover and/or construction of barriers (as described in Site Review Work Plan, page 2, section II) would be unwarranted. This should be clarified.

I look forward to hearing from you prior to any work being commenced at the Shaffer site. Please do not hesitate to call if you have any questions.

Sincerely,



Allyn G. Turner

AGT/lc

cc: Richard D. Rivers, Esquire
Mr. Raymond C. Brainard